

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF SOUTH CAROLINA

Marie Assa'ad-Faltas,

Plaintiff,

v.

Wal-Mart Stores East, L.P. and
Hewlett-Packard Company,

Defendant.

Civil Action No. 3:18-cv-03563-TLW

Order

Plaintiff Marie Assa'ad-Faltas, proceeding pro se and in forma pauperis, filed this action under 28 U.S.C. § 1332, asserting a claim for negligence against Wal-Mart Stores East, L.P., regarding an injury Plaintiff allegedly sustained at a Wal-Mart store, as well as claims against both Wal-Mart and Hewlett-Packard Company regarding an allegedly defective computer made by HP and sold by Wal-Mart to Plaintiff. ECF No. 1. This matter now comes before the Court for review of the Report and Recommendation (Report) filed by United States Magistrate Judge Shiva V. Hodges. ECF No. 64.

The Magistrate Judge previously issued a separate Report & Recommendation, ECF No. 53, recommending that the Court deny Wal-Mart's motion to dismiss for lack of jurisdiction, ECF No. 31, ordering HP to show cause why Plaintiff's motion for default, ECF No. 38, should not be granted, and denying Plaintiff's motion for recusal as to the Magistrate Judge. Plaintiff has additionally filed a separate motion for recusal as to the undersigned that the Court has considered and will address in this order. After the Magistrate Judge issued the first Report, HP filed a response to show cause and answer to the complaint. ECF No. 59, 61. The Magistrate Judge then issued the second Report recommending that Plaintiff's motion

for default judgment against HP, ECF No. 38, be denied. Plaintiff filed Objections to HP's response to show cause and to the Magistrate Judge's Report. ECF No. 62, 68. Neither Wal-Mart nor HP has filed objections to the Report. After the Magistrate Judge issued her Report, Plaintiff filed an Amended Complaint. ECF No. 91. The matter is now ripe for disposition.

The Court is charged with conducting a *de novo* review of any portion of the Magistrate Judge's Report and Recommendation to which a specific objection is registered, and may accept, reject, or modify, in whole or in part, the recommendations contained in that report. 28 U.S.C. § 636. In conducting its review, the Court applies the following standard:

The magistrate judge makes only a recommendation to the Court, to which any party may file written objections.... The Court is not bound by the recommendation of the magistrate judge but, instead, retains responsibility for the final determination. The Court is required to make a *de novo* determination of those portions of the report or specified findings or recommendation as to which an objection is made. However, the Court is not required to review, under a *de novo* or any other standard, the factual or legal conclusions of the magistrate judge as to those portions of the report and recommendation to which no objections are addressed. While the level of scrutiny entailed by the Court's review of the Report thus depends on whether or not objections have been filed, in either case the Court is free, after review, to accept, reject, or modify any of the magistrate judge's findings or recommendations.

Wallace v. Housing Auth. of the City of Columbia, 791 F. Supp. 137, 138 (D.S.C. 1992) (citations omitted).

In light of the standard set forth in *Wallace*, the Court has reviewed the Report, the objections, and relevant filings. After careful consideration, the Court concludes that the Plaintiff's objections offer no showing, either factually or legally that the Report should be rejected. Therefore, **IT IS ORDERED** that the Report, ECF No. 64, is **ACCEPTED**, and the Objections to the Report, ECF No. 68, are **OVERRULED**. For the reasons stated in the Report and those stated herein, Plaintiff's motion for entry of default judgment against HP, ECF No.

38, is **DENIED**. Additionally, the Court has considered Plaintiff's motion for recusal. ECF No. 46. The motion offers no showing, either factually or legally, warranting recusal and therefore the motion is **DENIED**. In light of Plaintiff's Amended Complaint, ECF No. 91, Wal-Mart's motion to dismiss, ECF No. 31, directed at the original complaint, ECF No. 1, is moot.

IT IS SO ORDERED.

s/Terry L. Wooten
Senior United States District Judge

March 24, 2020
Columbia, South Carolina